

Notice of Allowability

Application No.

10/606,142

Examiner

Susan W Berman

Applicant(s)

MOSZNER ET AL

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Preliminary Amendment 12-05-2003.
2. ☒ The allowed claim(s) is/are 1-19.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 6/03,12/03
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Joseph M. Noto on December 13, 2004.

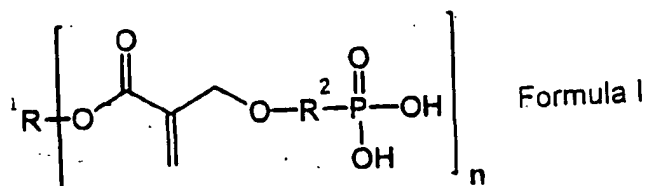
The application has been amended as follows:

Amend claim 1 by replacing claim 1 with claim 1 on the attached page and further by inserting after the number "1", – (currently amended) – and, in line 1, deleting the word "general".

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(currently amended)

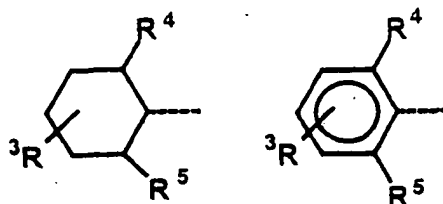
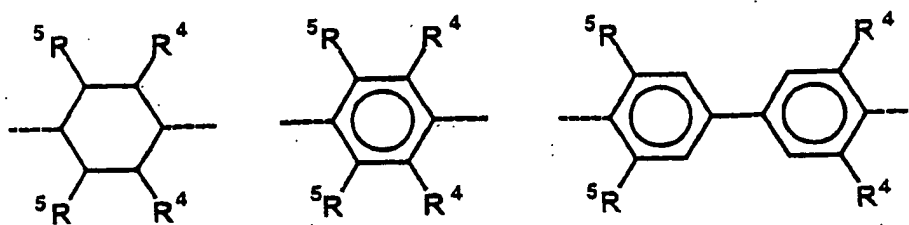
1. Acrylic ester phosphonic acid of ~~general~~ formula (I), stereoisomers thereof and mixtures of these,



in which

n is 1 or 2,

on the condition that

for n = 1 R¹ has the meaningand for n = 2 R¹ has the meaning

R² is a C₁ to C₁₂ alkylene radical, C₄-C₈ cycloalkylene radical or C₇ to C₁₅ alkylene phenylene radical;

R³ is hydrogen, a C₁ to C₅ alkyl radical or a C₁ to C₅ O-alkyl radical; and

R⁴, R⁵ independently of each other, each stand for a C₁ to C₅ alkyl radical or a C₁ to C₅ O-alkyl radical.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The prior art made of record herein and otherwise known to the examiner does not disclose or suggest an acrylic ester of a phosphonic acid corresponding to formula I set forth in instant claim 1. The difference from acrylic esters of phosphonic acid disclosed in the prior art is the ether group linking the phosphonic acid group to the beta carbon of the carbon-carbon double bond of the acrylic group.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references disclose acrylic or vinyl phosphonic acid esters: Moszner et al (6,172,131), Moszner et al (6,710,149), GB 2,089,807, EP 0 432 740 A1, Janda et al (4,640,936), Huang et al (4,966,934), Mukai et al (4,968,725), Hino et al (5,321,053), Nakatsuka et al (6,790,877), Omura et al (4,499,251 and 4,539,382).

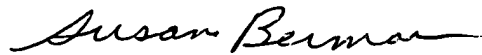
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan W Berman whose telephone number is 571 272 1067. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571 272 1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Susan W Berman
Primary Examiner
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SB

December 13, 2004